

CHANGES TO COURTROOM 45 RULES DUE TO COVID-19

I. ENTRY INTO THE COURTROOM

Face Coverings: All individuals entering the courtroom must wear a clean face covering secured over both nose and mouth. An exception to this requirement will be made if one is necessary because of medical issues upon notice to the court.

Social Distancing: Individuals must maintain at least six feet of space away from others in the courtroom. If encroachment upon this distance cannot be avoided, the encroachment must be brief and limited to the smallest encroachment and shortest duration reasonably necessary to conduct court business.

COVID-19 Symptoms or Exposure: Individuals may not enter the courtroom if they are currently experiencing COVID-19 symptoms, including cough, fever, body aches, recent loss of taste or smell, chills, or sore throat, or if those individuals have experienced any of those symptoms within the past 14 days. Individuals may not enter the courtroom if they have been exposed to someone with COVID-19 within the past 14 days.

Sanitation: Individuals must wash their hands (or use alcohol-based hand sanitizer) before entering the courtroom and should limit contact with surfaces in the courtroom to the extent possible.

Common courtroom surfaces will be cleaned and disinfected nightly. In addition, cleaning supplies are available so that seating areas and adjacent surfaces, including microphones, armrests and tables, can be cleaned and disinfected between individual uses.

II. SEATING ARRANGEMENTS AND COURTROOM MOVEMENT

Juror Seating: Jury panels will be comprised of a maximum of 15 jurors. Three potential jurors will be seated in the jury box with the balance of potential jurors spaced six feet apart in the gallery. Juror

seating will be specifically marked. No other seating in the gallery or jury box is to be used without permission of the court.

Litigant and Counsel Seating: The Defendant will sit at least six feet away from defense counsel. The prosecuting attorney will sit at least six feet away from defense counsel.

Seating of All Others: Counsel must provide advance notice to the court if they seek to have any other individuals present or seated in the courtroom, including investigators, victim advocates, translators, victims and/or family members. There is limited space in the courtroom in light of social distancing protocols and access may vary depending on the proceeding.

Courtroom Movement: Individuals should attempt to maintain six feet of separation when entering and exiting the courtroom. Everyone in the courtroom must take precautions to stay at least six feet away from others in the courtroom, with any encroachment social distance limited to the distance and duration reasonably necessary to conduct courtroom business. Unless specifically authorized by the court, attorneys are not allowed in the well, may not approach the witness, may not approach the bench and may not approach the Judicial Assistant except to file documents with the court and have exhibits marked. Counsel should stand at counsel table during questioning of jurors or witnesses or when addressing the court. Counsel shall use of the microphone when addressing jurors, witnesses or the court.

To the extent attorneys need to utilize electronic devices and/or equipment to publish exhibits or to assist in opening statements or closing arguments, that equipment must be set up in a way so as to be seen and/or heard by all in the courtroom. Counsel must ensure social distancing is maintained during the use of any such equipment, and the equipment should be tested and ready before proceedings commence.

III. EXHIBITS

Bates-Stamping and Pre-Marking: Exhibits should be Bates-stamped and exchanged amongst the parties prior to answering ready for any

proceeding, including trial. Bates-stamped exhibits that are expected to be used during any proceeding should be filed with the Judicial Assistant before the proceeding commences and marked with exhibit numbers/letters. This includes copies of exhibits intended to refresh a witness's recollection. Counsel are responsible for having their own copies of exhibits in court, preferably bound and tabbed by exhibit number for easy reference.

Bound/Tabbed Copies for Court and Witness: Counsel should work together to provide two bound copies of all paper document exhibits that both counsel intend to use, tabbed with the appropriate exhibit numbers. One bound copy shall be provided to the judge for reference at the bench, and one shall be placed on the witness stand. When/if counsel needs to refer to an exhibit, counsel shall refer the court, the witness and opposing counsel to the appropriate tab. Once an exhibit has been authenticated and foundation has been laid, counsel may publish the exhibit to the jury by electronic means. Any exhibit published to the jury shall have visible the original Bates-stamp.

If electronic copies are used, counsel must provide the electronic versions of the exhibits to opposing counsel before proceedings commence.

Exhibits are not required to be bound if they are minimal and can be accessed by the witness and the court without delay or confusion.

Audio/Video Exhibits: Prior to the commencement of any proceeding, counsel shall discuss the handling of audio/video exhibits with the court and opposing counsel, including the use and/or display of accompanying transcripts.

Impeachment Exhibits: For paper exhibits that are anticipated to be used only for impeachment, those exhibits will not be exchanged, but should be Bates-stamped and filed with the Judicial Assistant before the proceeding, with a separate copy provided to the court. If possible, the impeachment material should be shown to the witness by electronic means, but a paper copy must also be available to provide to opposing counsel at the time the impeachment exhibit is shown to the witness.

IV. INITIAL CONFERENCE AND MOTIONS IN LIMINE

Initial Conference: Upon answering ready for any proceeding assigned to Courtroom 45, counsel should report immediately to Courtroom 45 and review these rules. (A copy of these rules will be posted outside the courtroom and will be posted on line.) For jury trials, counsel shall be prepared to participate in an initial conference with the trial judge and opposing counsel to discuss logistics, motions in limine and any other anticipated issues, including issues involving witnesses, exhibits and mid-trial communications with the court.

Timing of Motions in Limine: Motions should be exchanged before the parties answer ready for trial. Parties should be prepared to discuss and argue disputed motions in limine at the initial conference.

Content of Motions in Limine: Litigants should not bring, or alternatively, should stipulate to, any motions that simply require adherence to existing law; such motions will not be granted by the court.

V. WITNESSES

Disclosure: Prior to calling ready for any proceeding, counsel must disclose all witnesses expected to testify, except witnesses called exclusively for purposes of impeachment. Counsel should disclose the likely order of witnesses to be called and advise opposing counsel of the next day's witnesses before leaving court for the day.

Informing Witnesses of Court Rulings and Courtroom Rules: Attorneys are responsible for ensuring that witnesses are familiar with any rulings that may impact the witness's conduct or testimony. Attorneys must also inform witnesses of the court's requirements for entry into the courtroom (see Section I above).

Face Coverings: Face coverings that cover both nose and mouth are to be worn by all individuals while in the courtroom. If any attorney believes it is necessary for anyone in the courtroom to remove a face covering (i.e. a testifying witness or a defendant for purposes of

identification), that issue should be discussed with opposing counsel and raised with the court in advance of trial or any other proceeding.

VI. JURY SELECTION

Voir dire will be conducted by the court, followed by questioning by each side for cause and the intelligent exercise of preemptory challenges. Do not repeat questions previously asked by the court, although follow up questions are allowed. Do not question jurors regarding the law or ask their understanding of jury instructions. Do not utilize “gotcha” type questions, such as “if you were asked to vote now, would you vote guilty or not guilty?” Do not tell personal stories or make statements that serve no purpose other than to ingratiate counsel with the jurors.

Time for jury selection will depend on the circumstances in each individual case. Please respect the jurors and use their time wisely.

VII. JURY INSTRUCTIONS AND DELIBERATIONS

Counsel shall meet and confer concerning all jury instructions before submitting them to the court. Counsel must be prepared to fully discuss any disputes or disagreements involving jury instructions at the jury instruction conference.

The court will provide the jury with 12 copies of the jury instructions. Attorneys should discuss in advance the number of copies of exhibits to be provided to jurors. The jury may need to deliberate in the courtroom unless alternative arrangements can be made. The court will take a break before releasing the jurors to deliberate so that in-custody defendants can be returned to custody and counsel can confer with the court on any outstanding issues.